

facias. And upon the same principles it would seem necessarily to follow, that an equity of redemption of the freehold could not be extended under an *elegit*. But, as the judgment created a lien upon the equity of redemption of the freehold, the creditor might obtain the benefit of his judgment by going into a Court of equity and redeeming any prior incumbrance. *Powel Mortg.* 255, 309, 601; *Scott v. Scholey*, 8 East, 467; *Metcalf v. Scholey*, 5 Bos. & Pull. 461.

* It having been finally settled in Maryland prior to the year 1732, that the immature legal titles awaiting perfection **318** in the land office, of which there is now, and always has been a great multitude, were liable, as a species of chattels real, to be taken in execution and sold by a *feri facias*, it was to be expected, that in construing and applying the Statute of 1732, it would be made to embrace at least all analogous cases of equitable interests, or those inchoate titles which one individual had obtained a right, by a bill for a specific performance, to call upon another to perfect and make a legal title. And there is strong reason to believe that this statute had been always so construed and applied.

Where in England a debtor had, by his will, charged his real estate with the payment of his debts and died without heirs, so that the property escheated, his creditors might have the benefit of such charge by a bill in Chancery making the Attorney-General a party. *Mitf. Plea.* 172. In Maryland the Statute of 1732 having subjected all lands to the payment of debts, did that, in general, which, in England, was only occasionally done by the debtor himself; and consequently, here the Legislature by various Acts, in affirmance of the previous course of proceeding, declared, that such escheated real estates might, by bill, in Chancery, to which the Attorney-General should be made a party, be sold and applied, without preference, in satisfaction of the debts of the deceased owner. October, 1780, ch. 51, s. 5; 1785, ch. 78. And recognizing the liability of equitable interests to the same extent as legal estates, a similar mode of reaching such equitable interests was given to creditors, where their debtor, who held any such interests, had died without heirs. And it was provided, that the purchaser of such equitable interests under the decree should stand in the place of the person who had died seised or possessed thereof, and might sustain a bill for a specific performance against the holder of the legal estate. And it was further declared, that where any sales of any such equitable titles have been made by virtue of any writ of *feri facias*, or decree, the purchaser thereof should have the same title thereto as if the purchase had been made in virtue of the provisions of that Act. 1792, ch. 44; 1794, ch. 60; 1795, ch. 88, s. 2 and 3.

These legislative enactments recognize the previously settled law, and affirm the fact, that equitable interests had been before